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Held at the Palais des Nations, Geneva,
on Friday, 26 March 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

CONTENTS

ORGANIZATION OF THE WORK OF THE SESSION (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued)

STATEMENT BY THE UNDER-SECRETARY OF STATE FOR FOREIGN AFFAIRS OF ITALY

STATEMENT BY THE MINISTER WITH SPECIAL RESPONSIBILITY FOR COOPERATION OF FRANCE

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

STATEMENT BY THE MINISTER FOR INTERNATIONAL DEVELOPMENT AND HUMAN RIGHTS OF NORWAY

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GE.99-11750 (E)

The meeting was called to order at 10 a.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

1. The CHAIRPERSON suggested that the Commission should examine the situation in Colombia under the agenda item. If she heard no objection, she would take it that the proposal was acceptable to the Commission.

2. Many delegations had referred in statements made under agenda item 3 to the document drawn up by the previous Bureau relating to the review of the mechanisms of the Commission (E/CN.4/1999/104). Since discussions had already been held on the subject, she suggested that informal open-ended consultations on the report should begin the following week before it was considered in plenary session under agenda item 20, entitled "Rationalization of the work of the Commission".

3. Mr. ALFONSO MARTINEZ (Cuba) said that his delegation was not opposed to informal consultations being held on the matter, provided they dealt only with questions of procedure, because consideration of substantive matters had to be reserved for the plenary meeting on item 20.

4. The CHAIRPERSON said she was aware that there were different approaches regarding the method to be adopted in considering the report. During the informal consultations, she was suggesting should be held, some delegations would deal with methods while others would tackle the substance of the matter.

5. Mr. SINGH (India) thanked the Chairperson for her initiative. The proposed consultations would be very useful in learning the various points of view and reaching an agreement on the method to be followed when the matter was considered in depth on 26 April 1999.

6. Ms. JOHNSON (Norway), speaking on behalf of the European Union, supported the Chairperson's suggestion. Because of the importance of the question it was necessary to proceed without delay to an exchange of views so that everyone could explain his position.

7. Mr. HÖYNCK (Germany) said he supported the Chairperson's initiative, which seemed perfectly normal, and proposed that it be accepted without reservation.

8. Mr. LABBE VILLA (Chile) and Mr. DE ICAZA (Mexico) said that they too were in favour of the suggestion made by the Chairperson.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 5) (continued) (E/CN.4/1999/10, 11 and 1, 2, 3; E/CN.4/1999/NGO/32, 58 and 59)

9. Mr. JAKA (France Libertés - Fondation Danielle Mitterrand) pointed out that, although the General Assembly of the United Nations had recognized the right of peoples to self-determination, the Kurdish people, of whom there were between 25 and 30 million and who constituted a nation founded on a community of language and territory, did not enjoy any right. Whereas the League of Nations had envisaged the accession of Kurdistan to national independence,

under the Treaty of Lausanne of 24 July 1923 the territory occupied by the Kurds had been divided up between Turkey, Iraq, Syria and Iran. In Iraq, the existence of the Kurdish people was recognized by the country's Constitution but in practice the Kurds were gassed, massacred and deprived of all rights. As for the three other countries, none of them had recognized the rights of the Kurdish people as a cultural entity and national group. Everywhere Kurdish culture was banished and Kurdish children were deprived of their natural right to obtain education in their mother tongue. France Libertés appealed to the competent bodies of the United Nations for a halt to the oppression of the Kurdish people and for them to be able to exercise their right to self-determination.

10. His organization would also point out that the people of Western Sahara had been struggling for independence for more than 25 years. Unfortunately, the referendum announced for 7 December 1998 had had to be postponed because of the obstacles Morocco had placed in the path of the peace process. France Libertés supported the unceasing efforts of the Secretary-General of the United Nations, who was doing everything possible to ensure that a free and transparent referendum was rapidly organized in Western Sahara.

11. Finally, his organization considered that the Albanians of Kosovo, the Timorese and the Tibetans were also peoples which should be able to exercise their right to self-determination and participate in building up regions in which they could live with others in harmony and solidarity.

12. Ms. MOYA (American Association of Jurists) vehemently protested against the arrogance of the North Atlantic Treaty Organization (NATO) which, under the leadership of the United States, was endeavouring to settle the conflict in Kosovo by force; it was a mission the Security Council of the United Nations had not assigned to it, for NATO was merely a military alliance. For that reason, any military attack against Yugoslavia by NATO forces amounted purely and simply to an aggression that was prohibited by international law. Such aggression marked the beginning of an escalation of violence in the region that would have untold consequences in terms of the number of victims and the amount of material destruction. The action was proof of the inability of the so-called mediators to reach a peaceful settlement based on recognition of the rights of the parties to the conflict, including Kosovo's right to autonomy.

13. President Clinton's recent statement that NATO bombing was in the interest of the peoples of the region was reminiscent of the motto over the gates to the Nazi concentration camps: "Work makes you free". Put another way, "Being bombed will make you happy".

14. The 25 million Kurds, who had a very ancient culture and were treated by the Big Powers as a gang of criminals, were another flagrant example of how little store was set by the right of peoples to self-determination. The Council of Europe could have intervened to stop one of the Kurdish leaders, Mr. Ocalan, being extradited to Turkey, where he risked the death penalty. But it had not done so, even though the 1957 European Convention on Extradition stipulated that no one could be extradited to a country applying capital punishment.

15. Admittedly, it was no easy matter to reverse the current trend towards the increasingly rapid degradation of international law. However, the American Association of Jurists thought that the international community could at least attempt to do so by abandoning the reverential fear which subjugated it to the super-Power and taking urgent initiatives within the Commission on Human Rights, the General Assembly and the Security Council.

16. Ms. MARWAH (International Institute for Non-aligned Studies) said that the right of peoples to self-determination applied to peoples under colonial or alien domination, or foreign occupation, as clearly stated by the World Conference on Human Rights in Vienna. The United Nations had never said, either in the Charter or in other declarations, that an ethnic or cultural group living in a pluralist society could be considered as a people living under colonial domination. That did not mean such groups could not express their social, cultural or political aspirations. Unfortunately, some individuals claiming to be representatives of those groups interpreted the right of self-determination as the right to secede. No group, whether in the minority or in the majority, must impose its own values. On the other hand, groups and individuals did not necessarily need to have their own State in order to have their legitimate rights respected. In fact, when States were created on the basis of religion or ethnicity, the human rights situation in such States often gave rise to serious concern. In reality, the only universally recognized democratic means of participating in cultural, religious, social and economic life in accordance with the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was the electoral process. It was incumbent upon States to guarantee free and honest elections. On the other hand, individuals with no mandate from the groups concerned who proclaimed themselves to be their representatives and resorted to violence in pursuit merely of their own interests should not be tolerated.

17. Mr. REHMAN (International Institute for Peace) said that since 1947 the Government of Pakistan had refused to recognize the right of the inhabitants of Kashmir to self-determination. They were forced into a state of passive obedience by a tyrannical civil administration and an army which did not hesitate brutally to repress the most peaceful demonstrations. Even worse, the people of Kashmir, deprived of their right to self-determination, had been divided by Pakistan into three zones: the northern zones called Azad Kashmir, which had no political status, and the Aksai Chin region, which had been given by Pakistan to China.

18. The inhabitants of Kashmir paid taxes to the Government of Pakistan but had no representation in the national parliament, and the taxes raised benefited other regions. At the same time, the representative of Pakistan had dared to assert hypocritically that the people of Kashmir had the right to self-determination.

19. He appealed to the international community, the Islamic world, and particularly the Organization of the Islamic Conference, not to allow themselves to be deceived by Pakistan's propaganda and to support the efforts of the inhabitants of Kashmir, particularly those in the northern zones, to realize their right to self-determination.

20. Mr. GUPTA (Indian Council of Education) recalled that in one of his working papers on the protection of minorities Mr. Asbjørn Eide had referred to conflict entrepreneurs, in other words, individuals who exploited the feelings of insecurity and the demands of certain groups to further their own particular interests, who interpreted the right to self-determination as the right to secede. Yet experience had shown that partitioning a country along ethnic lines merely aggravated the problems.

21. It was therefore important to distinguish between external self-determination, in other words, the right to freedom from a colonial Power, and internal self-determination, which was the right of each group of the population to preserve its own heritage and identity while participating in public affairs as equal citizens. Some years ago, making a clear distinction between the concepts of a "people" and "minorities", the Special Rapporteur, Mr. Hector Gross-Espiell, had held that international law applied to peoples and not to minorities. Likewise, in 1970, the Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations had emphasized that "nothing ... shall be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States".

22. His organization warned against violations of human rights committed by secessionist movements which had recourse to terrorism with the support of certain States. It urged all States to respect pluralism and to realize fully the importance of multi-culturalism both for their own development and for their stability.

23. Mr. KIRUPAHARAN (International Educational Development, Inc.) quoted two recent opinions, one by the Chairman of the International Criminal Tribunal for the Former Yugoslavia and the other by the Canadian Supreme Court, which tended to grant the right to self-determination to any entity which, without necessarily representing the entire population of a State, was endowed with objective characteristics such as a distinct language or culture, possessed a feeling of oneness and had a particular relationship to the land where it lived. He pointed out in that connection that in Sri Lanka the human rights and fundamental freedoms of the Tamil population had been violated with total impunity for more than half a century by the Sinhalese authorities. The liberation movement of the Tamil people had emerged in order to combat their ideology, which was based on racial supremacy and exclusive control of the entire territory. The international community and the United Nations had done nothing for the Tamil people, although at the fifty-fourth session of the Commission 54 non-governmental organizations had, in a joint statement (E/CN.4/1998/NGO/120), brought to the Commission's attention the current genocide, urging the Commission to adopt a resolution calling on the Sri Lankan Government and the Liberation Tigers of Tamil Eelam to secure a political solution which allowed the Tamil people to realize their right to self-determination.

24. Mr. PARY (Indian Movement "Tupaj Amaru") said that many peoples were still denied the right to self-determination, a right that was enshrined both in international law and in the customary law of very ancient civilizations. France still possessed colonies, the United Kingdom exercised colonial

domination over the Falkland Islands (Malvinas) and the United States of America over the people of Puerto Rico. Israel had deprived the Palestinian people of their lands and the Kurdish and Basque peoples were persecuted for having demanded the right to be recognized as cultural and political entities.

25. The same was true of the indigenous peoples, who for five centuries had been victims of discrimination and of genocide. In that connection, it should be noted that, contrary to what the detractors of the draft Declaration on the rights of indigenous peoples said, it did not at all envisage the creation of mini-States within national States; rather, it granted those peoples greater autonomy in the conduct of their own affairs.

26. Furthermore, there was good reason to condemn any interference in the internal affairs of sovereign countries under the guise of humanitarian law. The economic, commercial and financial embargo imposed on Cuba for the past 40 years and the sanctions and military aggression suffered by the Iraqi people were also attacks on the right of peoples freely to dispose of their wealth and resources. Again, NATO's military intervention against Yugoslavia was a serious violation of those principles. If one took the war argument to its logical conclusion one might ask why NATO was not also bombing Turkey and Spain, which were oppressing the Kurds and the Basques.

27. On the eve of the third millennium, the international community should not tolerate one or two economic and military Powers seeking to subjugate small countries of the Third World and making their populations die of hunger and disease.

28. Mr. HALEPOTA (Liberation) said that most disputes concerning self-determination were the result of frontiers imposed by the colonial Powers. In Sri Lanka, for instance, the Tamils, who had a very ancient language and culture, could justifiably invoke the right to self-determination, which was enshrined in article 1 of the International Covenant on Civil and Political Rights. However, the Government of Sri Lanka denied them that right and preferred a military solution. The international community needed to intervene and contribute to the settlement of the conflict.

29. Turkey, too, was seeking to resolve the Kurdish problem by arms. His organization called on the Commission to persuade the Turkish Government to respect the right to self-determination of the Kurds residing in Turkey and to seek a political settlement of the problem. In Pakistan, the Sindhi people, who had been promised autonomous status when they had joined the newly created State of Pakistan, were today persecuted and subjected to military occupation. The United Nations should send a fact-finding mission to the region.

30. The people of West Papua, now called Irian Jaya by Indonesia, had been annexed to Indonesia against their will in August 1969 in violation of the right to self-determination.

31. Ms. AGDAS (International Democratic Federation of Women) said that today many peoples were still deprived of the fundamental right to self-determination. Turkey, which had exterminated 1.5 million Armenians and Assyrians in 1915, was currently pursuing a policy of genocide against the

Kurdish people with complete impunity, on the pretext of combating terrorism. That dirty war had already cost 35,000 lives and had caused the forced displacement of 4 million people.

32. That was why the International Democratic Federation of Women associated itself with the proposals made in Rome by the leader of the Kurdish Workers' Party (PKK) and representative of the Kurdish people, Mr. Ocalan, who had been kidnapped by Turkey with the collaboration of the American and Israeli secret services in violation of international law. Those proposals were: stopping military operations in Kurdistan; returning displaced persons to their villages; abolishing the system of village guards; granting autonomy to Kurdistan without challenging Turkey's borders; granting the Kurds all democratic rights enjoyed by the Turks; and finally, official recognition of the Kurdish identity, language and culture, as well as religious freedom.

33. Ms. HARISH (World Federation of Trade Unions) said that enshrining the right to self-determination in the Charter of the United Nations had helped many peoples to free themselves from the colonial yoke. Today, ethnic, religious or linguistic groups were invoking that right to demand the creation of tiny States which might not be viable. The concept of self-determination should be applied with the greatest caution if one wanted to avoid dividing up multi-ethnic, multireligious and multilinguistic nation States with all the political chaos that would ensue.

34. Some States were advocating that scenario in order to satisfy their territorial ambitions. Pakistan, for example, which presented itself as a champion of self-determination, was in fact supporting fundamentalist religious groups which were engaged in atrocious acts of terrorism in Kashmir. Those organizations and their supporters forgot the rights of the Pandit minority, whose members had had to leave Kashmir en masse in order to escape the massacres, rapes and ethnic and religious cleansing that the community was a suffering from.

35. Another example of the policy of double standards applied by Pakistan regarding self-determination was its attitude towards its own population, in particular the inhabitants of Gilgit-Baltistan, who were subjected to ferocious repression for having requested not independence but self-rule.

36. Mr. AHMAD (World Muslim Congress) said that, more than 50 years after the right of peoples to self-determination had been enshrined in the Charter of the United Nations, tens of millions of people were still deprived of that right. The situation of the peoples of Kashmir, Palestine and Kosovo were examples. In Kosovo, Serb repression had been rampant since 1989, when Slobodan Milosevic had unilaterally abolished Kosovo's autonomous status and had begun to administer Kosovo as a colony. The Serbs were practising ethnic cleansing there and committing intolerable atrocities. However, the Albanians of Kosovo had an inalienable right to their land for authentically historical reasons, and because they were in the majority there. Independence was the only solution to the Kosovo problem.

37. Kashmir had been occupied by India since 27 October 1947, although it had never formed part of that country. It would be interesting to know how the Indian authorities justified what they called the integration of the State

of Jammu and Kashmir into India; they created the impression that the transfer of the sovereignty of the State of Jammu and Kashmir had taken the form of a treaty known as an instrument of accession. But that instrument had never been produced; did it really exist? On that point, the International Court of Justice had adopted a very clear position, holding that the integration of territory into a State could not take place without ascertaining the freely expressed will of the people. In its resolutions on Kashmir, the Security Council had stated that the final disposition of the State had to be through an impartial plebiscite organized under United Nations auspices. While presenting itself as "the biggest democracy", India was trampling on human rights to satisfy its expansionist aims.

38. Ms. MALONI (Afro-Asian Peoples Solidarity Organization) said that in her organization's view self-determination did not necessarily seek secession as its ultimate goal; rather, it meant giving people the opportunity to fashion their own destinies without disturbing the well-being of others, and to preserve their social, political, economic and cultural rights thanks to mechanisms enabling them to express their aspirations within the larger family called the nation State. Pluralistic democracy was the most appropriate system for achieving those objectives. For some, however, self-determination was possible only through the redrawing of historical borders and the disintegration of nation States even where colonialism did not exist. The consequences of such an interpretation were dramatic, as could be seen from the situation in the former Yugoslavia.

39. In fact, self-determination consisted essentially in preserving the rights and dignity of the individual, because it was individuals who formed communities. Movements that resorted to violence in order to impose an ideology or a political regime on a community were usurping the right to self-determination. Such movements were not rare in South and South-East Asia, where terrorist groups advocating extremist ideologies created distressing situations that could be resolved through peaceful dialogue. A voice of sanity had recently been heard on the subject of Kashmir. A member of Pakistan's National Assembly and of the Council of Islamic Ideology, Maulana Mohammed Khan Shirani, had advised the Kashmiris to accept autonomy within the Indian Union.

40. In a federal structure it was important for all provinces and their ethnic, linguistic, racial or other components to have their place, and for no one province to dominate the others. In Pakistan today several groups were questioning the domination of Punjab. The Mohajirs, in particular, felt they were excluded from the political, economic and social life of Pakistan, which was in the hands of the mandarins in Islamabad. Previously, the Sindhis had experienced a similar fate. Pakistan, which was a champion of the cause of self-determination and a member of the Movement of Non-Aligned Countries, should immediately engage the provinces in a dialogue that would assure them greater autonomy.

41. Mr. GONZALES (International Indian Treaty Council) welcomed the constitutional reforms introduced in Guatemala through which the existence and diversity of the Mayan, Garifuna and Xinca peoples had been recognized for the first time in the country's history. Those reforms, which opened the way for the establishment of a truly multicultural and multilingual State had been

approved by parliament on 18 October 1998. Unfortunately, members of the Government and elements in the business sector were obstructing the democratization process; they were arguing that the popular consultations on the legislative changes that were necessary to provide more just treatment for the indigenous peoples and the Ladino population of Guatemala were unconstitutional.

42. The signing on 29 September 1996 of a firm and lasting peace had meant an end to the armed conflict and had produced various peace accords. The Commission for Historical Clarification established under those accords had submitted its report on 25 February 1999. It catalogued the crimes committed in Guatemala, among them genocide, torture, rape, the violent deaths of 200,000 people and other aggressive deeds which had helped to destroy the social fabric of the Mayan people. It clearly established that the State of Guatemala was responsible for those crimes.

43. His organization requested the Commission on Human Rights to adopt the report of the Commission for Historical Clarification as an official document of the United Nations and urged the Guatemalan Government to take up the recommendations made by that Commission. It encouraged the Guatemalan Government to adopt the proposals submitted by the various Mayan associations. It also called upon the Guatemalan administration which would be replacing that of Mr. Alvaro Arzu to continue to implement the peace accords with the participation of the Mayan, Garifuna and Xinca peoples, as well as the Ladino or mestizo population. Lastly, he invited the international community to urge the Guatemalan Government to organize the popular consultations necessary for the implementation of the peace accords and to fulfil the recommendations of the Commission for Historical Clarification.

44. Mr. KHAN AZIZ (European Union of Public Relations) said that at the latest session of the Sub-Commission he had sought the international community's intervention to persuade Pakistan to give the Kashmiris living in Gilgit and Baltistan their freedom. Nothing had happened since then, yet Pakistan had continued to proclaim in every forum its undying commitment to the cause of Kashmiri self-determination. He was himself a Kashmiri and from the part of Kashmir that was occupied by Pakistan. It would be noted that Pakistan defended the right to self-determination only for the part of Jammu and Kashmir that was occupied by India. Hence, if the international community did not discharge its responsibilities, Gilgit and Baltistan would forever remain a colony of Pakistan and its inhabitants would be oppressed, denied their fundamental freedoms and kept economically backward. The inhabitants of Gilgit and Baltistan had never had the right to elect their own representatives to the Pakistan's National Assembly and had no assembly of their own. They were ruled on the spot by an administrator appointed by Pakistan who was generally a retired army officer. There was no local television station or university. The inhabitants could not even emigrate to other countries because they were required to obtain an authorization to leave which was issued by the authorities of Pakistan even though they were not a part of Pakistan. Consequently, he appealed once again to the international community to send a team to the area which could witness at first hand the political, economic and cultural repression being carried out by Pakistan, and it was his hope that the international community would not wait until violence broke out before taking an interest in the situation.

45. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that self-determination was not necessarily tantamount to political independence; it could be implemented in different forms, ranging from local or regional autonomy to outright independence. What was lacking, however, was a common set of criteria to judge the form of autonomy required in each case. It was only by analysing some 50 conflicts in the world today that those criteria could be defined and authentic liberation movements could be distinguished from terrorist activities.

46. The struggle of the Tamils in Sri Lanka was a good example of a situation in which a people had a right to demand independence. Since 1948 the Tamils had been progressively and systematically deprived of their fundamental rights. In the last parliamentary elections in 1977, more than 75 per cent of the Tamils had voted for the independence of their homeland. That vote had not been recognized as a referendum on self-determination, and the Tamils' struggle for their rights, which had hitherto been non-violent, had turned into a military campaign led by the Liberation Tigers of Tamil Eelam. The three objectives pursued by the Tamils were equality of rights and opportunities, the right to self-determination, and the withdrawal of government forces from the north-east. In view of political events both past and present, it seemed that those objectives could be achieved only through the creation of an independent Tamil State. The Sri Lankan Government continued to deprive the Tamil people of their fundamental rights. Sinhala had been decreed as the one official language of the State; since 1991 the economic blockade imposed on the north-east region had targeted not so much the Liberation Tigers of Tamil Eelam but the Tamil population as a whole.

47. In conclusion, the International League for the Rights and Liberation of Peoples urged the Commission to establish a fact-finding mission to assess the situation and to consider the basis for the Tamils' claim of a right to self-determination.

48. Mr. BURSIK (Society for Threatened Peoples) drew attention to the situation of human rights in Nagaland. His organization had on a number of occasions welcomed the fact that the National Socialist Council of Nagaland and the Government of India had agreed to open negotiations with a view to finding a peaceful political solution to a conflict which had lasted for 52 years. It was therefore with concern that it had learned that the Government of India had already violated clauses of the peace process and the ceasefire, which had been in force for more than a year. Since August 1997 some 27 citizens of Nagaland had been killed, 16 kidnapped and dozens of houses burned down either by the Indian army or by Indian paramilitary forces. The Society for Threatened Peoples appealed to the Indian Government to order its military and administrative officers to stop any violence against the Naga people and to comply with the terms of the ceasefire. It also suggested that the United Nations might encourage the two parties to find a just settlement of their dispute.

49. Mr. MAJID TRAMBOO (International Human Rights Association of American Minorities), after referring to the Declaration on the Granting of Independence to Colonial Countries and Peoples and recalling that in the recent past a number of countries had gained independence (including the Baltic States, Bosnia and Herzegovina and Croatia), noted with concern that no

just and acceptable resolution had yet been found for the territory of Jammu and Kashmir. Although India and Pakistan had committed themselves in 1948 to the status of Jammu and Kashmir being determined by the people, those commitments had never been fulfilled. What was more, the Kashmiris under Indian occupation continued to be subjected to grave violations of their rights. In May 1998 the nuclear tests conducted by India and Pakistan had made Kashmir one of the most dangerous regions on the planet. It was incumbent upon the international community to use its powers of persuasion and convince India to accept a referendum under terms negotiated with all three parties concerned - India, Pakistan and the authentic leadership of the Kashmiris, the All-Parties Hurriyet Conference. It was high time for the long night of horror of the 13 million Kashmiris to end. With that objective the Commission should urge India to adopt a constructive attitude and renew its commitment to the Kashmiris' right to self-determination, to withdraw its military forces from the occupied territory, to repeal all laws and ordinances which were in contravention of international covenants and to engage in dialogue with the All-Parties Hurriyet Conference and Pakistan.

STATEMENT BY THE UNDER-SECRETARY OF STATE FOR FOREIGN AFFAIRS OF ITALY

50. Ms. TOIA (Italy), expressing her full support for the statement made on behalf of the European Union, said that, every day, human rights revealed more and more about the tendencies in each country and they were now a fundamental element affecting international relations not only at the political level but also on the economic and cultural levels. Just as universality and uniformity should not be confused with regard to human rights, so the specific nature of traditions and cultures should not serve any longer as a pretext for some to shirk their obligations.

51. The very substance of human rights was changing along with societies themselves. So far the new sciences of biotechnology and genetic engineering had not led to the creation of a real system of principles and codes of conduct. That sector could indeed make a contribution to promotion of the right to health, yet it was vital to subject it to rigorous ethical control. The important declaration on the human genome adopted by the General Assembly of the United Nations in 1998 had been a great step forward in that direction.

52. Particular attention should be paid to the execrable trade in organs illegally removed from minors and people who died violent deaths in vast areas of the third world. Such practices must be denounced and brought to a halt.

53. Italy, which had recently ratified the Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption, was aware that much remained to be done in preventing the abuses of minors and in affording them the protection they needed. In that connection, she appealed for the prompt adoption of the two optional protocols to the Convention on the Rights of the Child, concerning the participation of children in armed conflicts, and the sale of children, child prostitution and child pornography.

54. Italy had for years been conducting a determined campaign for the abolition of capital punishment. The Commission on Human Rights had approved at a previous session a resolution which, while ultimately aimed at the abolition of the death penalty, was directed at guaranteeing minimum respect

for humanitarian norms on the part of countries which continued to apply it. Italy's campaign, which the European Union had taken up, had the immediate objective of securing a moratorium on implementation of the death penalty.

55. The Italian delegation fully subscribed to the observations made by the presidency of the European Union regarding the International Criminal Court. Its hope was that the statute of the Court would be rapidly signed and ratified by the largest number of States Members of the United Nations and that its scope of activity would be fleshed out.

56. Comparing the mechanisms of the United Nations system with those of regional groupings revealed the absence of a quasi-jurisdictional body to which individuals could appeal and which would have competence that went beyond that of the conventional bodies which were limited to making recommendations to States. On a number of occasions, Italy had proposed the establishment of a United Nations international court for human rights which would complement the structure that was already in place.

57. Despite generous efforts made in recent decades, the gap between the rich and poor countries had widened considerably. In such circumstances, it was natural that the emphasis should be placed more on guaranteeing the simplest and most fundamental of all rights, the right to survival. In an interdependent world, it was no longer possible to put the right to development on the back burner because its negation led to poverty and malnutrition in large parts of the world, jeopardizing the exercise of all fundamental rights and in particular the right to life. In the framework of the first United Nations Decade for the Elimination of Poverty, it was imperative to strive to satisfy at least the essential needs of the most destitute peoples.

58. In conclusion, her delegation appealed for the present session to be the starting point for new initiatives to train staff in the Commission's verification duties and in promoting knowledge about human rights throughout the world. It was an important task and Italy stood ready to make its full contribution.

STATEMENT BY THE MINISTER WITH SPECIAL RESPONSIBILITY FOR COOPERATION OF FRANCE

59. Mr. JOSSELIN (France) said that the fiftieth anniversary of the Universal Declaration of Human Rights was being marked by many celebrations. France, along with the Office of the High Commissioner for Human Rights, had launched a project for an Internet site on human rights. The celebrations had made it possible to assess the amount of ground that had been covered since the Declaration had been adopted. The revulsion at the impunity enjoyed by so many crimes against humanity had had concrete effects, notably with the establishment of international criminal tribunals for Rwanda and the former Yugoslavia. The Statute of the International Criminal Court, which had been signed by almost 80 States, including France, also marked a new step in the struggle against impunity by enunciating the legal dimension of the Charter of the United Nations. France, which was committed to the protection of victims of armed conflicts, also stood ready to ratify Protocol I of the Geneva Conventions.

60. The human rights situation in the world was still very mixed. In Africa there were continuing tragic conflicts but democracy was taking root, as the recent elections in Nigeria had shown. In Latin America, the rule of law was growing stronger, although some situations were still a cause for concern. In Asia, there were encouraging signs which had yet to become a reality on the ground. The military intervention in Kosovo, painful as it was, was based on a democratic plan for Europe which could not tolerate repressive policies that denied human rights.

61. The past year had also seen the emergence in Asia, Russia and Brazil of serious financial crises that could only jeopardize the enjoyment of economic and social rights, which were as essential a component of human rights as civil and political rights. The French authorities, mindful of the duty of solidarity, had proposed to their G-8 partners that the debt of the most indebted poor countries be cancelled; they intended to submit further proposals to the meetings of the IMF and World Bank aimed at strengthening the international financial system. Like the other member States of the European Union, France also wanted the question of the role of the United Nations in the globalization process to be considered in depth on the occasion of the millennium session of the General Assembly.

62. At the present session, the Commission would be discussing a number of challenges already faced by the international community. In order to contribute to the struggle against intolerable attacks on children's rights, France actively supported the adoption of the two optional protocols to the Convention on the Rights of the Child, one on the involvement of children in armed conflicts and the other on the sale of children, child prostitution and pornography involving children. The sudden emergence of new forms of crime using the technology of the Internet or the development of international transport called for the establishment of appropriate legal mechanisms, backed by stepped-up administrative and legal cooperation between States. Ensuring that biotechnologies were used ethically would require stronger coordination between the moral authorities that were active in that field in order to prevent unacceptable adverse developments which could affect human rights and human identity.

63. The most recent measures taken by France to strengthen recognition of and respect for human rights included the bill before the French Parliament to make the slave trade a crime against humanity, the constitutional reform to secure de facto parity between men and women, and the adoption of a law to combat exclusion. Within the Commission, France would be working with all its partners to advance the cause of human rights and would, in that endeavour, be submitting four draft resolutions, on arbitrary detention, forcible disappearances, bio-ethics and extreme poverty, in the hope that they would enjoy wide support.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF FINLAND

64. Ms. HALONEN (Finland) said that, although the primary responsibility for ensuring respect for human rights lay with States, the United Nations had an indispensable role to play. There were three areas where further measures needed to be taken. Firstly, Finland urged all States which had not yet done so to ratify the main international human rights instruments and those which

had entered reservations to withdraw them. Secondly, Finland invited all States to cooperate unreservedly with officials of the Commission's mechanisms responsible for the promotion and protection of human rights by ensuring them free and unrestricted access to their territory. In that connection, Finland wholeheartedly supported the guiding principles set out in the relevant report of the Bureau of the fifty-fourth session (E/CN.4/1999/104). It was unacceptable for special rapporteurs not to enjoy the full cooperation of all States. Furthermore, it was necessary to make sure that the special mechanisms adequately covered essential human rights issues. From that point of view, the progress that had been made in taking into account economic, social and cultural rights, including recently in the areas of education and extreme poverty, were a source of satisfaction. While congratulating the Special Rapporteur on violence against women for her excellent work, Finland considered that, to defend women's rights, it was not enough to have one special rapporteur. Finland would continue to insist that all mechanisms for defending human rights, whether thematic mechanisms or country-specific mechanisms, adopt a gender perspective. Thirdly, the activities of the Office of the High Commissioner for Human Rights having greatly expanded in recent years, Finland would continue to contribute directly to its various activities, particularly its field operations, which supported the development of a sustainable human rights culture. In the knowledge, however, that voluntary contributions could not be adequate, Finland reiterated its call for additional resources to be provided for the Office of the High Commissioner for Human Rights from the United Nations regular budget.

65. Racism represented a real challenge for human rights. Governments should not merely refrain from racist and discriminatory actions but should also take steps to eliminate racial discrimination and promote understanding among races. The World Conference on Racism would be an excellent occasion for exchanging views on how best to achieve those objectives. It was imperative to involve NGOs in order to ensure transparency towards civil society throughout the process. Her country hoped that the World Conference would give a boost to promoting the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination. Finland also considered that the protection of minorities and indigenous peoples at the present time was inadequate, as could be seen from the situation of the Roma people and of immigrants in various parts of Europe. Accordingly, consideration should be given to adopting new instruments as well as strengthening existing mechanisms. It would be necessary, too, to take into account the valuable contribution of the International Labour Organization in protecting the rights of indigenous peoples.

66. Finland was opposed to the death penalty in all circumstances and actively advocated its abolition worldwide. It was an inhuman form of punishment and the risk of executing an innocent person could never be eliminated. Moreover, research had shown that capital punishment was not an effective deterrent. As a first step, Finland expected all States to refrain from carrying out executions. There were now 105 countries which had abolished the death penalty in law or in practice. Finland urged them to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, which prohibited the use of the death penalty in States parties.

STATEMENT BY THE MINISTER FOR INTERNATIONAL DEVELOPMENT AND HUMAN RIGHTS OF NORWAY

67. Ms. FRAFJORD JOHNSON (Norway) said that mankind had always dreamed of a world without violence and slavery but it was only in the second half of the twentieth century that respect for universally recognized human rights had become an objective in its own right which, if fulfilled, would help to achieve the other goals of the United Nations, particularly the building of peace. The fact that mankind now had a universal platform of rights, values and common principles meant that it was possible to talk about the globalization of accountability, which was the key to progress for human development.

68. All human rights, whether civil and political or economic, social and cultural, were indissociable and interdependent. Economic, social and cultural rights had to be given their rightful place, particularly in eliminating poverty. That was one of the most urgent tasks. There could be no human development without respect for human rights as an integrated whole.

69. For its part, Norway was currently drawing up a national plan of action for human rights in line with the Vienna Declaration and Programme of Action, which would be presented to the National Assembly in the course of the year. The first annual report on what had been done to promote human rights in Norway and abroad had also been published. In 1998 Norway had pledged US$ 1 million to the Office of the High Commissioner for Human Rights to help other countries draw up their own national plans of action.

70. The national plan of action in Norway addressed among other things the following issues: the practice of custody, the use of coercion in psychiatric health care, the rights of the child, the rights of disabled persons and the issue of racial and ethnic discrimination. It was necessary to improve knowledge of human rights among the population in general and in the administration in particular. In Norway, the business community was becoming more and more aware that investing in human rights could be profitable. At the international level there were various ways of promoting fundamental rights. Norway was engaged in a frank, constructive and mutually beneficial dialogue on human rights with a number of countries, for example China, Cuba and Turkey. Those bilateral dialogues did not rule out other approaches. For instance, as a member of the Commission, Norway intended to address the situation of human rights in a number of States, particularly the three she had mentioned.

71. In the matter of human rights defenders, Governments must urgently act together to implement the Declaration on the rights of such persons that had been adopted last year.

72. The celebration of the tenth anniversary of the Convention on the Rights of the Child should be the opportunity to step up the struggle against the exploitation of children, whether in factories, brothels or armies. Norway supported various initiatives to combat such practices and attached priority to education in its development assistance.

73. Religious intolerance and racism posed grave challenges to every nation. The organization in 2001 of a world conference on racism was therefore to be welcomed and Norway had begun its preparations with NGO participation as one of the key elements.

74. Religion was often considered to be a source of conflict. It should not be forgotten, however, that religions and beliefs could also be a powerful force for conflict resolution. For example, a conference had been held in Oslo the summer of 1998 at which representatives of many religious communities had decided, in the light of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, to build a coalition whose aim was to promote respect for religion and belief. Furthermore, a few days ago under the chairmanship of Norway representatives of the Governments of the countries of the Organization for Security and Cooperation in Europe had met representatives of religious communities and other NGOs to address the question of religious freedom in Europe.

75. Norway strongly supported the efforts of the Working Group to draw up a draft declaration on the rights of indigenous peoples and hoped that recent progress on the creation of a permanent forum for indigenous peoples would enable the Commission to make final recommendations at its fifty-sixth session.

76. Capital punishment was morally reprehensible and could not be justified on any grounds. Accordingly, Norway would be unreservedly supporting the draft resolution condemning capital punishment that was to be presented by the European Union. Furthermore, Norway strongly urged all States to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at abolishing the death penalty. It also called upon all States to sign and ratify the Statute of the International Criminal Court as soon as possible.

77. As for consideration of the mechanisms to protect human rights, the review conducted by the Bureau of the fifty-fourth session of the Commission represented a good starting point. It was essential for such mechanisms to be strengthened, something that was the special challenge for the Commission at its present session.

78. The Norwegian Government extended an invitation to all special rapporteurs and other mechanisms under the Commission to visit Norway whenever they so desired. It wished to pay a special tribute to the High Commissioner for the efforts she had made in the cause of human rights.

79. Nowadays nobody could claim to be ignorant of the many violations of human rights committed throughout the world. The Commission was therefore under a moral obligation to take decisions to remedy the situation. That was the key to progress.

Statements made in exercise of the right of reply

80. Ms. SUTOYO (Indonesia), referring to the Portuguese delegation's statement about East Timor, said her country had adopted a constructive approach to the question. Also, a solution was near at hand as a result of

the tripartite dialogue to be held shortly under the auspices of the Secretary-General of the United Nations and to be followed in July 1999 by the inhabitants of East Timor being consulted on autonomy. Consequently, the Portuguese statement was based on an anachronism. Also, the Portuguese Interests Section in Jakarta was well aware that it was the pro-independence extremists who were continuing to whip up violence by killings and harassment. The one-sided and unsubstantiated allegations by the Portuguese delegation would merely hamper the efforts that had been made to reach a solution. As for Portugal's call for a permanent United Nations presence to be maintained in East Timor, the Indonesian delegation wished to state that the issue did not come within the purview of the Commission on Human Rights.

81. Ms. DIAZ (Observer for Portugal) said that her country welcomed the courageous decision taken by the Indonesian authorities to allow the Timorese to express their views directly on the subject of their future. The Portuguese delegation had simply wanted to draw attention to the fact that the conditions prevailing in East Timor at the moment were not favourable and that it was necessary to ensure that the population could freely express its will.

82. Ms. SUTOYO (Indonesia), replying to the Observer for Portugal, said that she did not wish to prolong the controversy on the issue. She would simply appeal to all parties to work to create a climate that would permit a just, global and internationally acceptable settlement of the question of East Timor to be reached.

83. Mr. ZAKI (Pakistan), replying to those non-governmental organizations which, with the support of India, had made false allegations calling his country into question with regard to Kashmir, said that in accordance with the Security Council's request in June 1998 Pakistan had engaged in negotiations with the Indian authorities to enable the Kashmiris to exercise their right of self-determination. He urged the NGOs concerned to refrain from interfering in the internal affairs of countries, whichever countries they might be.

84. Mr. NAZARIAN (Observer for Armenia), replying to a statement by the Azerbaijani delegation, said it was strange that Azerbaijan should be speaking on item 5 of the agenda when it was refusing the right of self-determination to the population of Nagorny Karabakh and had committed aggression against that population. Again, contrary to what the representative of Azerbaijan had claimed, no decision on the subject of Nagorny Karabakh had ever been taken by the Council of Europe or by the OSCE at the Lisbon Summit.

85. Mr. MOUSSAEV (Observer for Azerbaijan), replying to the Observer for Armenia, pointed out that respect for the territorial integrity of sovereign States was a fundamental principle of the United Nations. Armenia recognized neither the sovereignty nor the territorial integrity of Azerbaijan and had even gone so far as to invade and occupy part of its territory. Armenia had therefore adopted a position that was blatantly contrary to international law.

86. Still worse, Armenia, which had become a mono-ethnic State after forcibly expelling all the minorities from its territory, was now trying to teach other States, in particular multi-ethnic States, to respect the right of self-determination. Lastly, the grave violations of human rights committed by

the Armenian authorities against the Azerbaijani population, the use of mercenaries and resort to terrorism could not be recognized as legitimate actions.

87. Mr. NAZARIAN (Observer for Armenia), replying to the Observer for Azerbaijan, said that he interpreted the false accusations made against his country by the Azerbaijani delegation as a desperate attempt to divert attention from its own violations of human rights in Nagorny Karabakh. In order not to prolong the debate unnecessarily he reserved the right to revert to the question under the relevant agenda items.

88. Mr. MOUSSAEV (Observer for Azerbaijan), replying to the Observer for Armenia, stated that the time for illusions had passed and, whether the Observer for Armenia liked it or not, Nagorny Karabakh would never be independent and would never form part of Armenia. The Security Council resolutions on the matter as well as the decisions taken by the OSCE at the Lisbon Summit in 1996 would continue to serve as a basis for settling the tragic conflict.

89. Mr. BOYTCHENKO (Russian Federation) said he had been unable to hide his astonishment when the French Minister had justified the use of force against a sovereign State, namely Serbia, by invoking a democratic plan for Europe. He had not realized that bombs were part of the democratic arsenal. Like President Yeltsin, the delegation of the Russian Federation was extremely perturbed by the NATO aggression against Serbia. Only the Security Council was empowered to take decisions on the use of force to re-establish peace. The Security Council, however, had not taken such a decision concerning the Federal Republic of Yugoslavia. Hence, the fundamental principles of the United Nations had been contravened. It was a dangerous precedent. On the threshold of the twenty-first century, NATO was setting itself up as the world's policeman and imposing the diktat of force. It was unacceptable. The conflict in Kosovo could be settled only through negotiations, and those who had plunged into such a bellicose adventure were irresponsible.

90. Mr. FERNANDEZ PALACIOS (Cuba) said that his country refused to remain indifferent when those who dared to speak out in the Palais des Nations had just launched a war of barbarous aggression against the Federal Republic of Yugoslavia and were claiming to save lives by dropping bombs. Bombs were blind and killed Christians as well as Muslims, the military as well as civilians, Serbs as well as Kosovars.

91. Using a tactic as old as the world itself - divide and rule - the mighty were seeking to bring to their knees an indomitable people which had heroically resisted the Nazi hordes.

92. Cuba, which was also a victim of brutal aggression but had all the moral authority given by its example, demanded immediate cessation of the aggression. It demanded respect for the sovereignty and territorial integrity of the Federal Republic of Yugoslavia and the resumption of negotiations in order to settle the conflict by peaceful means.

93. The CHAIRPERSON asked the representative of Cuba to make it clear which country he was addressing in exercising his right of reply.

94. Mr. FERNANDEZ PALACIOS (Cuba) said he was replying to all those who had mentioned the armed attack by NATO against Serbia.

95. The Chairperson declared that consideration of agenda item 5 was concluded.

The meeting rose at 1.15 p.m.